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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,936	03/22/2001	Wayne Morgan John	713-409	1825

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Benjamin J. Hauptman
LOWE HAUPTMAN GILMAN & BERNER, LLP
Suite 310
1700 Diagonal Road
Alexandria, VA 22314

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/17/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/813,936

Applicant(s)

JOHN ET AL.

Examiner

Alicia Chevalier

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 15, 16, 21 and 26.

Claim(s) objected to: _____.


Claim(s) rejected: 37.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 3. Applicant's reply has overcome the following rejection(s): The 35 U.S.C. § 112 rejection of claims 15, 16, 21 and 26 of record in paper #9, page 3, paragraph #7 and the 35 U.S.C. § 103 rejection of claims 15 and 16 over Harper et al. (5,077,117) of record in paper #9, page 3, paragraph #7. The 35 U.S.C. § 112 rejection of claims 6-14, 17, 22, 24 and 31 of record in paper #9, page 3, paragraph #7 is moot since these claims have been cancelled. The 35 U.S.C. § 102 rejections of claims 6-14, 22, 35, 36, 38, 39, 43, 44 and 46 only of record in paper #9, pages 3-4, paragraphs #8 and #9 are moot since these claims have been cancelled. The 35 U.S.C. § 103 rejections of claims 6, 8, 24, 35, 40, 41, 42, and 45 only of record in paper #9, pages 4-6, paragraphs #10-#12 are moot since these claims have been cancelled.

Continuation of 5. does NOT place the application in condition for allowance because: It remains the Examiner's position that claim 37 is anticipated by Robbins, Jr. (4,340,633) and Harper et al. (5,077,117) of record in paper #9, pages 3-4, paragraphs #8 and #9 for reasons previously of record in the final office action, paper #9 mailed May 21, 2003.


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

9/16/03

AE
9/15/03